

103^D CONGRESS
1ST SESSION

S. 783

To amend the Fair Credit Reporting Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7 (legislative day, MARCH 3), 1993

Mr. BRYAN (for himself, Mr. BOND, and Mr. RIEGLE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To amend the Fair Credit Reporting Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Consumer Reporting Reform Act of 1993”.

6 (b) TABLE OF CONTENTS.—The following is a table
7 of contents for this Act:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE FAIR CREDIT REPORTING ACT

Sec. 101. Definitions.

Sec. 102. Furnishing and using reports; use of information obtained from reports.

Sec. 103. Amendments relating to prescreening of consumer reports.

- Sec. 104. Amendments relating to obsolete information and information contained in consumer reports.
- Sec. 105. Amendments relating to compliance procedures.
- Sec. 106. Amendments relating to consumer disclosures.
- Sec. 107. Amendments relating to procedures in case of the disputed accuracy of any information in a consumer's file.
- Sec. 108. Amendment relating to charges for disclosure.
- Sec. 109. Amendments relating to duties of users of consumer reports.
- Sec. 110. Amendments relating to civil liability.
- Sec. 111. Amendments relating to responsibilities of persons who furnish information to consumer reporting agencies.
- Sec. 112. State action to enforce Act.
- Sec. 113. Administrative enforcement.
- Sec. 114. Establishment of toll-free telephone number.
- Sec. 115. Action by FTC.
- Sec. 116. Effective dates.

TITLE II—CREDIT REPAIR ORGANIZATIONS

- Sec. 201. Regulation of credit repair organizations.

1 TITLE I—AMENDMENTS TO THE 2 FAIR CREDIT REPORTING ACT

3 SEC. 101. DEFINITIONS.

4 (a) ADVERSE ACTION.—Section 603 of the Fair
5 Credit Reporting Act (15 U.S.C. 1681a) is amended by
6 adding at the end the following new subsection:

7 “(j) The term ‘adverse action’, when used in connec-
8 tion with any action based in whole or in part on any in-
9 formation contained in a consumer report, means any ac-
10 tion which is adverse or less favorable to the interest of
11 the consumer who is the report subject. Without limiting
12 the general applicability of the foregoing, the following
13 constitute adverse actions:

14 “(1) CREDIT.—Any denial or revocation of
15 credit, any increase in the charge for credit, any
16 change in the terms of an existing credit arrange-

1 ment, or any refusal to grant credit in substantially
2 the amount or on substantially the terms requested.
3 Attempts to collect debts owed or allegedly owed
4 shall not be considered ‘adverse actions’.

5 “(2) EMPLOYMENT.—Any denial of employment
6 or other adverse or less favorable decision relating to
7 employment purposes.

8 “(3) INSURANCE.—Any denial or cancellation
9 of, any increase in any charge for, or reduction or
10 other adverse or unfavorable change in the terms of
11 coverage or amount of, any insurance, existing or
12 applied for, in connection with the underwriting of
13 insurance.

14 “(4) LICENSE OR BENEFIT.—Any denial or
15 cancellation of, or any increase in any charge for, or
16 any other adverse or unfavorable change in the
17 terms of, any license or benefit described in section
18 604(3)(D).

19 “(5) CONSUMER INITIATED BUSINESS TRANS-
20 ACTION.—Any denial or cancellation of, or any other
21 adverse or unfavorable change in the terms of, any
22 business transaction which the consumer has initi-
23 ated or sought to initiate.”.

1 (b) DEFINITION OF CONSUMER REPORT.—Section
2 603(d) of the Fair Credit Reporting Act (15 U.S.C.
3 1681a(d)) is amended in the second sentence—

4 (1) by inserting before the semicolon at the end
5 of clause (A) “, or any communication of that infor-
6 mation or information (i) from a credit application
7 by a consumer, provided that it is clearly and con-
8 spicuously disclosed with the application that the in-
9 formation may be provided to such entities and the
10 consumer consents to such disclosure, or (ii) among
11 the person making the report, an entity related by
12 common ownership to that person, and an entity af-
13 filiated by corporate control with that person”;

14 (2) in clause (B), by striking “or” after the
15 semicolon at the end; and

16 (3) by inserting before the period the following:
17 “; (D) any communication of information about a
18 consumer between persons who are affiliated by
19 common ownership or common corporate control and
20 in connection with a credit or insurance transaction
21 which is not initiated by the consumer, if either of
22 those persons has complied with section
23 615(d)(2)(B) with respect to a consumer report
24 from which the information is taken and the
25 consumer has consented to use of the report for the

1 transaction in accordance with section 615(d)(2)(C);
2 or (E) any report furnished for use in connection
3 with a transaction which consists of an extension of
4 credit to be used for a commercial purpose”.

5 (c) FIRM OFFER OF CREDIT.—Section 603 of the
6 Fair Credit Reporting Act (15 U.S.C. 1681a) is amended
7 by adding at the end the following new subsection:

8 “(k) The term ‘firm offer of credit’ means any offer
9 of credit to a consumer that will be honored if, based on
10 information in a consumer report on the consumer and
11 other information bearing on the creditworthiness of the
12 consumer, the consumer is determined to meet the criteria
13 used to select the consumer for the offer.”.

14 (d) CREDIT OR INSURANCE TRANSACTION WHICH IS
15 NOT INITIATED BY THE CONSUMER.—Section 603 of the
16 Fair Credit Reporting Act (15 U.S.C. 1681a) is amended
17 by adding at the end the following new subsection:

18 “(l) The term ‘credit or insurance transaction which
19 is not initiated by the consumer’ does not include the use
20 of a consumer report by a person with which the consumer
21 has an account, for purposes of—

22 “(1) reviewing the account; or

23 “(2) collecting the account.”.

1 **SEC. 102. FURNISHING AND USING REPORTS; USE OF IN-**
 2 **FORMATION OBTAINED FROM REPORTS.**

3 (a) USE OF REPORTS FOR EMPLOYMENT AND BUSI-
 4 NESS PURPOSES.—Section 604 of the Fair Credit Report-
 5 ing Act (15 U.S.C. 1681b) is amended—

6 (1) by striking “A consumer reporting agency
 7 may furnish” and inserting “(a) IN GENERAL.—A
 8 consumer reporting agency may furnish”;

9 (2) in subsection (a)(3) (as designated by para-
 10 graph (1)), by amending subparagraph (E) to read
 11 as follows:

12 “(E) otherwise has a legitimate business
 13 need for the information in connection with a
 14 business transaction that—

15 “(i) is initiated by the consumer; or

16 “(ii) is a direct marketing transaction
 17 for which the furnishing of a consumer re-
 18 port by the agency is not prohibited under
 19 subsection (e).”; and

20 (3) by adding at the end the following new
 21 subsection:

22 “(b) CONDITIONS FOR FURNISHING AND USING
 23 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

24 “(1) CERTIFICATION FROM USER.—A consumer
 25 reporting agency may furnish a consumer report for
 26 employment purposes only—

1 “(A) if the person who obtains such report
2 from the agency certifies to the agency that—

3 “(i) the disclosure required under
4 paragraph (2) or (3), as the case may be,
5 with respect to such consumer report has
6 been made; and

7 “(ii) information from the consumer
8 report will not be used in violation of any
9 applicable Federal or State equal employ-
10 ment opportunity law or regulation; and

11 “(B) if the consumer reporting agency pro-
12 vides with the report a summary of the consum-
13 er’s rights under this title, as prescribed by the
14 Federal Trade Commission under section
15 609(c)(3).

16 “(2) DISCLOSURES TO PROSPECTIVE AND CUR-
17 RENT EMPLOYEES.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), a person may not procure a
20 consumer report, or cause a consumer report to
21 be procured, for employment purposes with re-
22 spect to any prospective or current employee
23 unless—

24 “(i) the prospective or current em-
25 ployee has received, before the report is

1 procured, a clear and conspicuous disclo-
2 sure made in writing that consumer re-
3 ports may be used for employment pur-
4 poses; and

5 “(ii) the prospective or current em-
6 ployee has provided a general or specific
7 written authorization for the procurement
8 of the report prior to such procurement.

9 “(B) WRITTEN MATERIAL CONSTITUTING
10 NOTICE.—A written statement that consumer
11 reports may be used for employment purposes
12 which is contained in employee guidelines or
13 manuals available to employees and prospective
14 employees or included in written materials pro-
15 vided to such persons shall constitute a written
16 disclosure for purposes of subparagraph (A).

17 “(3) CONDITIONS ON USE FOR ADVERSE AC-
18 TIONS.—Before taking any adverse action based on
19 a consumer report used for employment purposes, a
20 person shall provide to the consumer to whom the
21 report relates—

22 “(A) a copy of the report;

23 “(B) a description of the consumer’s rights
24 under this title, as prescribed by the Federal
25 Trade Commission under section 609(c)(3); and

1 “(C) a reasonable opportunity to respond
2 to any information in the report that is dis-
3 puted by the consumer, except that if the per-
4 son has a reasonable belief that the consumer
5 has engaged in fraudulent or criminal activity,
6 no such opportunity to respond shall be
7 required.”.

8 (b) USE OF INFORMATION OBTAINED FROM RE-
9 PORTS.—Section 604 of the Fair Credit Reporting Act (15
10 U.S.C. 1681b) is further amended by adding at the end
11 the following new subsection:

12 “(c) CERTAIN USE OR OBTAINING OF INFORMATION
13 PROHIBITED.—A person shall not use or obtain informa-
14 tion from a consumer report for any purpose unless—

15 “(1) it is obtained for a purpose for which the
16 consumer report is authorized to be furnished under
17 subsection (a); and

18 “(2) the purpose is certified in accordance with
19 section 607 by a prospective user of the report.”.

20 (c) DISCLOSURE OF CONSUMER REPORTS BY
21 USERS.—Section 607 of the Fair Credit Reporting Act
22 (15 U.S.C. 1681e) is amended by adding at the end the
23 following new subsection:

24 “(c) DISCLOSURE OF CONSUMER REPORTS BY
25 USERS ALLOWED.—A consumer reporting agency may not

1 prohibit a user of a consumer report furnished by the
2 agency on a consumer from disclosing the contents of the
3 report to the consumer if adverse action against the
4 consumer has been taken or is contemplated by the user,
5 based in whole or in part on the report.”.

6 **SEC. 103. AMENDMENTS RELATING TO PRESCREENING OF**
7 **CONSUMER REPORTS.**

8 (a) IN GENERAL.—Section 604 of the Fair Credit
9 Reporting Act (15 U.S.C. 1681b), as amended by section
10 102, is further amended—

11 (1) in subsection (a), by striking “A consumer
12 reporting agency” and inserting “Subject to sub-
13 section (d), any consumer reporting agency”; and

14 (2) by adding at the end the following new
15 subsection:

16 “(d) LIMITATIONS ON REPORTS RELATING TO CRED-
17 IT OR INSURANCE TRANSACTIONS NOT INITIATED BY THE
18 CONSUMER.—

19 “(1) IN GENERAL.—A consumer reporting
20 agency may furnish a consumer report relating to
21 any consumer pursuant to subsection (a)(3)(A) to
22 any person referred to in such subsection in connec-
23 tion with any solicitation for credit or insurance that
24 is not initiated by the consumer only if—

1 “(A) the consumer authorizes the agency
2 to provide such report to such person; or

3 “(B)(i) the transaction consists of a firm
4 offer of credit or insurance;

5 “(ii) the consumer reporting agency has
6 complied with subsection (f); and

7 “(iii) the consumer has not elected in ac-
8 cordance with subsection (f)(1) to have the con-
9 sumer’s name and address excluded from lists
10 provided by the agency pursuant to paragraph
11 (1)(B).

12 “(2) LIMITS ON INFORMATION RECEIVED
13 UNDER PARAGRAPH (1)(B).—A person may receive
14 pursuant to paragraph (1)(B) only—

15 “(A) the name and address of a consumer;
16 and

17 “(B) information pertaining to a consumer
18 that is not identified or identifiable with the
19 consumer.

20 “(3) INFORMATION REGARDING INQUIRIES.—
21 Except as provided in section 609(a)(4), a consumer
22 reporting agency shall not furnish to any person a
23 record of inquiries resulting from credit or insurance
24 transactions which are not initiated by a
25 consumer.”.

1 (b) FURNISHING CONSUMER REPORTS FOR DIRECT
2 MARKETING TRANSACTIONS.—Section 604 of the Fair
3 Credit Reporting Act (15 U.S.C. 1681b) is further amend-
4 ed by adding at the end the following new subsections:

5 “(e) FURNISHING CONSUMER REPORTS FOR DIRECT
6 MARKETING TRANSACTIONS NOT INITIATED BY
7 CONSUMER.—

8 “(1) FURNISHING REPORTS PROHIBITED.—A
9 consumer reporting agency may not furnish a
10 consumer report for use for a direct marketing
11 transaction that is not initiated by the consumer to
12 whom the report relates, if—

13 “(A) the consumer notifies the agency that
14 the consumer does not consent to that use;

15 “(B) the report includes any information
16 other than the name and address of the
17 consumer; or

18 “(C) furnishing the information would dis-
19 close the credit payment history, credit limit,
20 credit balance, or any negative information per-
21 taining to the consumer.

22 “(2) NOTIFICATION.—A consumer may notify a
23 consumer reporting agency for purposes of para-
24 graph (1)(A) either—

25 “(A) in writing; or

1 “(B) in the case of an agency which com-
2 piles and maintains files on consumers on a na-
3 tionwide basis, by calling the toll-free telephone
4 number established pursuant to subsection
5 (f)(3).

6 “(f) ELECTION OF CONSUMER TO BE EXCLUDED
7 FROM LISTS.—

8 “(1) IN GENERAL.—A consumer may elect to
9 have his or her name and address excluded from any
10 list provided by a consumer reporting agency pursu-
11 ant to subsection (e)(2), by—

12 “(A) notifying the agency, through the no-
13 tification system maintained by the agency
14 under paragraph (3), that the consumer does
15 not consent to any use of consumer reports re-
16 lating to the consumer in connection with any
17 credit or insurance transaction which is not ini-
18 tiated by the consumer; or

19 “(B) returning to the agency a signed
20 written notice of the election, if provided by the
21 agency in accordance with paragraph (2).

22 “(2) PROVISION OF WRITTEN NOTICE TO
23 CONSUMER.—A consumer reporting agency shall
24 mail to a consumer a written notice for purposes of
25 paragraph (1)(B), not later than 5 business days

1 after being notified of the election of the consumer
2 in accordance with paragraph (1)(A).

3 “(3) NOTIFICATION SYSTEM.—Each consumer
4 reporting agency which furnishes a consumer report
5 pursuant to subsection (a)(3)(A) in connection with
6 any credit or insurance transaction which is not ini-
7 tiated by a consumer shall establish and maintain a
8 notification system, including a toll-free telephone
9 number, which permits any consumer whose
10 consumer report is maintained by the agency to no-
11 tify the agency, with appropriate identification, of
12 the consumer’s election to have the consumer’s name
13 and address excluded from any list of names and ad-
14 dresses provided by the agency pursuant to sub-
15 section (d)(1)(B). Establishment and maintenance of
16 a nationwide notification system and publication by
17 a consumer reporting agency on a nationwide basis
18 in accordance with this paragraph shall be consid-
19 ered to be in compliance with this paragraph by each
20 affiliate of the agency.

21 “(4) AGENCIES WHICH OPERATE NATION-
22 WIDE.—Each consumer reporting agency which com-
23 piles and maintains files on consumers on a nation-
24 wide basis shall establish and maintain a notification

1 system under paragraph (3) jointly with other such
2 consumer reporting agencies.

3 “(5) EFFECTIVENESS OF ELECTION.—An elec-
4 tion of a consumer under paragraph (1)—

5 “(A) shall be effective with respect to a
6 consumer reporting agency beginning on the
7 date on which the consumer notifies the agency
8 in accordance with paragraph (1)(A);

9 “(B) shall be effective—

10 “(i) for a period of 2 years after that
11 effective date; or

12 “(ii) permanently, as may be specified
13 by the consumer in his or her notification
14 of election under paragraph (1)(B), except
15 that the consumer may notify the agency
16 at any time of a change of election in ac-
17 cordance with paragraph (1); and

18 “(C) shall be effective with respect to each
19 affiliate of the agency.”.

20 (c) FIRST NOTIFICATIONS BY CONSUMERS.—A
21 consumer may notify a consumer reporting agency
22 through a notification system established and maintained
23 by the agency under section 604(f) of the Fair Credit Re-
24 porting Act on or after the date which is 1 year after the
25 date of enactment of this Act.

1 **SEC. 104. AMENDMENTS RELATING TO OBSOLETE INFOR-**
2 **MATION AND INFORMATION CONTAINED IN**
3 **CONSUMER REPORTS.**

4 (a) REPEAL OF EXEMPTION PROVISIONS.—Section
5 605(a) of the Fair Credit Reporting Act (15 U.S.C.
6 1681c(a)) is amended in subsection (a), by striking “(a)
7 Except as authorized under subsection (b) of this section,
8 no” and inserting “(a) OBSOLETE INFORMATION.—Ex-
9 cept as otherwise specifically authorized, no”.

10 (b) ADDITIONAL INFORMATION ON BANKRUPTCY
11 FILINGS REQUIRED.—Section 605(b) of the Fair Credit
12 Reporting Act (15 U.S.C. 1681c(b)) is amended to read
13 as follows:

14 “(b) INFORMATION REQUIRED TO BE DISCLOSED.—
15 Any consumer reporting agency that furnishes a consumer
16 report that contains information regarding any case in-
17 volving the consumer which arises under title 11, United
18 States Code, shall include in the report an identification
19 of the chapter of such title 11 under which such case
20 arises if provided by the source of the information. If any
21 case arising or filed under title 11, United States Code,
22 is withdrawn by the consumer prior to a final judgment,
23 the consumer reporting agency shall include in the report
24 that such case or filing was withdrawn upon receipt of
25 documentation certifying such withdrawal.”.

1 (c) CLARIFICATION OF REPORTING PERIOD.—Sec-
2 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
3 1681c) is further amended by adding at the end the fol-
4 lowing new subsection:

5 “(c) RUNNING OF REPORTING PERIOD.—The 7-year
6 period referred to in paragraphs (4) and (6) of subsection
7 (a) shall begin, with respect to any delinquent account
8 which is placed for collection (internally or by referral to
9 a third party, whichever is earlier), charged to profit and
10 loss, or subjected to any similar action, upon the expira-
11 tion of the 180-day period beginning on the date of the
12 commencement of the delinquency which immediately pre-
13 ceded the collection activity, charge to profit and loss, or
14 similar action.”.

15 (d) DISCLOSURE OF PERSONAL INFORMATION.—Sec-
16 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
17 1681c) is further amended by adding at the end the fol-
18 lowing new subsection:

19 “(d) DISCLOSURE OF PERSONAL INFORMATION.—A
20 person who prepares any credit report which includes per-
21 sonal credit information on any consumer shall not include
22 in the report any adverse item of information on the
23 consumer with respect to transactions which antedate the
24 report by more than 10 years or which could not be in-

1 cluded in any consumer report on the consumer in accord-
2 ance with this section.”.

3 (e) INDICATION OF CLOSURE OF ACCOUNT.—Section
4 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c)
5 is further amended by adding at the end the following new
6 subsection:

7 “(e) INDICATION OF CLOSURE OF ACCOUNT BY
8 CONSUMER.—If a consumer reporting agency is notified
9 pursuant to section 622(a)(4) that a credit account of a
10 consumer was voluntarily closed by the consumer, the
11 agency shall indicate that fact in any consumer report that
12 includes information related to the account.”.

13 (f) POSITIVE INFORMATION.—Section 605 of the
14 Fair Credit Reporting Act (15 U.S.C. 1681c) is further
15 amended by adding at the end the following new sub-
16 section:

17 “(f) ACCEPTANCE OF CERTAIN INFORMATION.—A
18 consumer reporting agency shall accept from a consumer
19 and include in the consumer’s file relevant and timely in-
20 formation that is not in computerized form if the informa-
21 tion—

22 “(1) would have a positive impact on a deter-
23 mination of creditworthiness of the consumer; and

1 “(2) is submitted in a form and manner that
 2 complies with regulations of the Federal Trade
 3 Commission.”.

4 (g) CLERICAL AMENDMENTS.—

5 (1) SECTION HEADING.—The heading for sec-
 6 tion 605 of the Fair Credit Reporting Act (15
 7 U.S.C. 1681c) is amended by striking “**OBSOLETE**
 8 **INFORMATION**” and inserting “**REQUIREMENTS**
 9 **RELATING TO INFORMATION CONTAINED IN**
 10 **CONSUMER REPORTS**”.

11 (2) TABLE OF SECTIONS.—The table of sections
 12 at the beginning of the Fair Credit Reporting Act
 13 (15 U.S.C. 1681a et seq.) is amended by striking
 14 the item relating to section 605 and inserting the
 15 following:

“605. Requirements relating to information contained in consumer re-
 ports.”.

16 **SEC. 105. AMENDMENTS RELATING TO COMPLIANCE PRO-**
 17 **CEDURES.**

18 (a) NOTICE TO USERS AND PROVIDERS OF INFORMA-
 19 TION TO ENSURE COMPLIANCE.—

20 (1) IN GENERAL.—Section 607 of the Fair
 21 Credit Reporting Act (15 U.S.C. 1681e), as amend-
 22 ed by section 102, is amended by adding at the end
 23 the following new subsection:

1 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
2 MATION.—A consumer reporting agency shall provide a
3 notice to any person—

4 “(1) who regularly and in the ordinary course
5 of business furnishes information to the agency with
6 respect to any consumer; or

7 “(2) to whom a consumer report is provided by
8 the agency;
9 of such person’s responsibilities under this title.”.

10 (2) CONTENT OF NOTICE.—The Federal Trade
11 Commission shall prescribe the content of notices
12 under section 607(d) of the Fair Credit Reporting
13 Act by not later than 1 year after the date of enact-
14 ment of this Act.

15 (b) RECORD OF IDENTITY OF USERS AND PURPOSES
16 CERTIFIED BY USERS OF REPORTS.—Section 607 of the
17 Fair Credit Reporting Act (15 U.S.C. 1681e) is further
18 amended by adding at the end the following new sub-
19 section:

20 “(e) PROCUREMENT OF CONSUMER REPORT FOR
21 RESALE.—

22 “(1) DISCLOSURE.—A person may not procure
23 a consumer report for purposes of reselling the re-
24 port (or the information contained in the report) un-

1 less the person discloses to the consumer reporting
2 agency which originally furnished the report—

3 “(A) the identity of the ultimate end-user
4 of the report (or the information), and

5 “(B) each permissible purpose under sec-
6 tion 604 for which the report is furnished to
7 the ultimate end-user of the report (or the
8 information).

9 “(2) RESPONSIBILITIES OF PROCURERS FOR
10 RESALE.—A person who procures a consumer report
11 for purposes of reselling the report (or the informa-
12 tion contained in the report) shall—

13 “(A) establish and comply with reasonable
14 procedures designed to ensure that the report
15 (or the information) is resold by the person only
16 for a purpose for which the report may be fur-
17 nished under section 604, including by ensuring
18 that the person—

19 “(i) identifies each prospective user of
20 the resold report (or the information);

21 “(ii) certifies each purpose for which
22 the report (or the information) will be
23 used; and

1 “(iii) certifies that the report (or the
2 information) will be used for no other pur-
3 pose; and

4 “(B) before reselling the report, make rea-
5 sonable efforts to verify the identifications and
6 certifications made under subparagraph (A).”.

7 **SEC. 106. AMENDMENTS RELATING TO CONSUMER DISCLO-**
8 **SURES.**

9 (a) ALL INFORMATION IN CONSUMER’S FILE RE-
10 QUIRED TO BE DISCLOSED.—Section 609(a)(1) of the
11 Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is
12 amended to read as follows:

13 “(1) All information in the consumer’s file at
14 the time of the request.”.

15 (b) MORE INFORMATION CONCERNING RECIPIENTS
16 OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair
17 Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended
18 to read as follows:

19 “(3)(A) Identification of each person who pro-
20 cured a consumer report—

21 “(i) for employment purposes within the 2-
22 year period preceding the request; and

23 “(ii) for any other purpose within the 1-
24 year period preceding the request.

1 “(B) An identification of a person under sub-
2 paragraph (A) shall include—

3 “(i) the name of the person or, if applica-
4 ble, the trade name (written in full) under
5 which such person conducts business; and

6 “(ii) upon request of the consumer, the ad-
7 dress and telephone number of the person.”.

8 (c) INFORMATION REGARDING INQUIRIES.—Section
9 609(a) of the Fair Credit Reporting Act (15 U.S.C.
10 1681g(a)) is further amended by adding at the end the
11 following new paragraph:

12 “(4) A record of all inquiries received by the
13 agency in the 1-year period preceding the request
14 that identified the consumer in connection with a
15 credit or insurance transaction which is not initiated
16 by the consumer.”.

17 (d) SUMMARY OF RIGHTS REQUIRED TO BE IN-
18 CLUDED WITH DISCLOSURE.—

19 (1) IN GENERAL.—Section 609 of the Fair
20 Credit Reporting Act (15 U.S.C. 1681g) is amended
21 by adding at the end the following new subsection:

22 “(c) SUMMARY OF RIGHTS REQUIRED TO BE IN-
23 CLUDED WITH DISCLOSURE.—

24 “(1) SUMMARY OF RIGHTS.—A consumer re-
25 porting agency shall provide to a consumer, on or

1 with each written disclosure by the agency to the
2 consumer under this section—

3 “(A) a written summary of all rights the
4 consumer has under this title; and

5 “(B) in the case of a consumer reporting
6 agency which compiles and maintains consumer
7 reports on a nationwide basis, a toll-free tele-
8 phone number which the consumer can use to
9 communicate with the agency.

10 “(2) SPECIFIC ITEMS REQUIRED TO BE IN-
11 CLUDED.—The summary of rights required under
12 paragraph (1) shall include—

13 “(A) a brief description of this title and all
14 rights of consumers under this title;

15 “(B) an explanation of how the consumer
16 may exercise the rights of the consumer under
17 this title;

18 “(C) a list of all Federal agencies respon-
19 sible for enforcing any provision of this title
20 and the address and any appropriate telephone
21 number of each such agency, in a form that will
22 assist the consumer in selecting the appropriate
23 agency; and

24 “(D) a statement that a consumer report-
25 ing agency is not required to remove accurate

1 derogatory information from a consumer’s file,
2 unless the information is outdated under sec-
3 tion 605 or cannot be verified.

4 “(3) FORM OF SUMMARY OF RIGHTS.—For pur-
5 poses of this subsection and any disclosure by a
6 consumer reporting agency required under this title
7 with respect to consumers’ rights, the Federal Trade
8 Commission (after consultation with each Federal
9 agency referred to in section 621(b)) shall prescribe
10 the form and content of any disclosure of the rights
11 of consumers required under this title.”.

12 (2) TECHNICAL AMENDMENT.—Section
13 606(a)(1)(B) of the Fair Credit Reporting Act (15
14 U.S.C. 1681d(a)(1)(B)) is amended by inserting
15 “and the written summary of the rights of the
16 consumer prepared pursuant to section 609(c)” be-
17 fore the semicolon.

18 (e) FORM OF DISCLOSURES.—

19 (1) IN GENERAL.—Subsections (a) and (b) of
20 section 610 of the Fair Credit Reporting Act (15
21 U.S.C. 1681h) are amended to read as follows:

22 “(a) WRITTEN DISCLOSURE.—The disclosures re-
23 quired to be made under section 609 shall be provided to
24 a consumer in writing.

25 “(b) OTHER FORMS OF DISCLOSURE.—

1 “(1) IN GENERAL.—In addition to the written
2 disclosures required by subsection (a), a consumer
3 reporting agency may make the disclosures required
4 under section 609 other than in written form if—

5 “(A) the consumer authorizes the disclo-
6 sure;

7 “(B) the consumer furnishes proper identi-
8 fication to the consumer reporting agency;

9 “(C) the consumer specifies the form of
10 disclosure; and

11 “(D) such form of disclosure is available
12 from the agency.

13 “(2) FORM.—A consumer may specify pursuant
14 to paragraph (1) that disclosures under section 609
15 shall be made—

16 “(A) in person, upon the appearance of the
17 consumer at the place of business of the
18 consumer reporting agency where disclosures
19 are regularly provided, during normal business
20 hours, and on reasonable notice;

21 “(B) by telephone, if the consumer has
22 made a written request for disclosure by tele-
23 phone that includes the proper identification of
24 the consumer, as required by paragraph (1)(B);

1 “(C) by electronic means, if available from
2 the agency; or

3 “(D) by any other reasonable means that
4 is available from the agency.”.

5 (2) SIMPLIFIED DISCLOSURE.—Not later than
6 90 days after the effective date of this Act, each
7 consumer reporting agency shall develop a form on
8 which such consumer reporting agency shall make
9 the disclosures required under section 609(a) of the
10 Fair Credit Reporting Act, for the purpose of maxi-
11 mizing the comprehensibility and standardization of
12 such disclosures. The Federal Trade Commission
13 shall take appropriate action to assure that the goals
14 of comprehensibility and standardization are
15 achieved.

16 (3) CONFORMING AMENDMENTS.—

17 (A) SECTION HEADING.—Section 610 of
18 the Fair Credit Reporting Act (15 U.S.C.
19 1681h) is amended in the heading for the sec-
20 tion by inserting “**AND FORM**” after “**CONDI-**
21 **TIONS**”.

22 (B) TABLE OF SECTIONS.—The table of
23 sections at the beginning of the Fair Credit Re-
24 porting Act (15 U.S.C. 1681a et seq.) is

1 amended in the item relating to section 610 by
2 inserting “and form” after “Conditions”.

3 **SEC. 107. AMENDMENTS RELATING TO PROCEDURES IN**
4 **CASE OF THE DISPUTED ACCURACY OF ANY**
5 **INFORMATION IN A CONSUMER’S FILE.**

6 (a) IN GENERAL.—Section 611(a) of the Fair Credit
7 Reporting Act (15 U.S.C. 1681i(a)) is amended to read
8 as follows:

9 “(a) REINVESTIGATION OF DISPUTED INFORMA-
10 TION.—

11 “(1) IN GENERAL.—If the completeness or ac-
12 curacy of any item of information contained in any
13 consumer’s file at any consumer reporting agency is
14 disputed by the consumer and the consumer notifies
15 the agency directly of such dispute, the agency shall
16 reinvestigate free of charge and record the current
17 status of the disputed information before the end of
18 the 30-day period beginning on the date the agency
19 receives the notice of the dispute from the consumer.

20 “(2) PROMPT NOTICE OF DISPUTE TO FUR-
21 NISHER OF INFORMATION.—Not later than 5 busi-
22 ness days after the date on which a consumer re-
23 porting agency receives notice of a dispute from any
24 consumer in accordance with paragraph (1), the
25 agency shall notify any person who provided any

1 item of information in dispute at the address and in
2 the manner established with the person.

3 “(3) DETERMINATION THAT DISPUTE IS FRIVO-
4 LOUS OR IRRELEVANT.—

5 “(A) IN GENERAL.—Notwithstanding para-
6 graph (1), a consumer reporting agency may
7 terminate a reinvestigation of information dis-
8 puted by a consumer under that paragraph if
9 the agency reasonably determines that dispute
10 by the consumer is frivolous or irrelevant, in-
11 cluding by reason of a failure by a consumer to
12 provide sufficient information to investigate the
13 dispute.

14 “(B) NOTICE OF DETERMINATION.—Not
15 later than 5 business days after making any de-
16 termination in accordance with subparagraph
17 (A) that a dispute is frivolous or irrelevant, a
18 consumer reporting agency shall mail to the
19 consumer a written notification of such deter-
20 mination (including the reasons for the deter-
21 mination), and, if authorized by the consumer
22 for that purpose, by any other means available
23 to the agency.

24 “(4) CONSIDERATION OF CONSUMER INFORMA-
25 TION.—In conducting any reinvestigation under

1 paragraph (1) with respect to disputed information
2 in the file of any consumer, the consumer reporting
3 agency shall review and consider all relevant infor-
4 mation submitted by the consumer in the period de-
5 scribed in paragraph (1) with respect to such dis-
6 puted information.

7 “(5) DELETION OF INACCURATE OR UNVERIFI-
8 ABLE INFORMATION.—

9 “(A) IN GENERAL.—If, in the course of
10 any reinvestigation under paragraph (1) of any
11 information disputed by a consumer, an item of
12 the information is found to be inaccurate or
13 cannot be verified, the consumer reporting
14 agency shall promptly delete that item of infor-
15 mation from the consumer’s file.

16 “(B) REQUIREMENTS RELATING TO
17 REINSERTION OF PREVIOUSLY DELETED MATE-
18 RIAL.—

19 “(i) CERTIFICATION OF ACCURACY OF
20 INFORMATION.—If any information is de-
21 leted from a consumer’s file pursuant to
22 subparagraph (A), the information may
23 not be reinserted in the file after the dele-
24 tion unless the person who furnishes the

1 information certifies that the information
2 is complete and accurate.

3 “(ii) NOTICE TO CONSUMER.—If any
4 information which has been deleted from a
5 consumer’s file pursuant to subparagraph
6 (A) is reinserted in the file in accordance
7 with clause (i), the consumer reporting
8 agency shall, not later than 5 business
9 days after such deletion, mail to the
10 consumer written notification of the
11 reinsertion, and, if authorized by the
12 consumer for that purpose, by any other
13 means available to the agency.

14 “(C) PROCEDURES TO PREVENT RE-
15 APPEARANCE.—A consumer reporting agency
16 shall maintain reasonable procedures designed
17 to prevent the reappearance in a consumer’s
18 file, and in consumer reports on the consumer,
19 of information that is deleted pursuant to this
20 paragraph (other than information that is
21 reinserted in accordance with subparagraph
22 (B)(i)).

23 “(6) NOTICE OF RESULTS OF
24 REINVESTIGATION.—

1 “(A) IN GENERAL.—A consumer reporting
2 agency shall mail to the consumer written noti-
3 fication of the results of a reinvestigation under
4 this subsection not later than 5 business days
5 after the completion of the reinvestigation, and,
6 if authorized by the consumer for that purpose,
7 by other means available to the agency.

8 “(B) CONTENTS.—As part of or in addi-
9 tion to the notice under subparagraph (A), a
10 consumer reporting agency shall provide to a
11 consumer in writing within the 5-business-day
12 period referred to in subparagraph (A)—

13 “(i) a statement that the
14 reinvestigation is completed;

15 “(ii) a consumer report that is based
16 upon the consumer’s file as that file is re-
17 vised as a result of the reinvestigation;

18 “(iii) a description or indication of
19 any changes made in the consumer report
20 as a result of those revisions to the con-
21 sumer’s file;

22 “(iv) a notice to the consumer that, if
23 requested by the consumer, a description
24 of the procedure used to determine the ac-
25 curacy and completeness of the informa-

1 tion shall be provided to the consumer by
2 the agency, including the name, business
3 address, and telephone number of any fur-
4 nisher of information contacted in connec-
5 tion with such information;

6 “(v) a notification that the consumer
7 has the right to add a statement to the
8 consumer’s file disputing the accuracy or
9 completeness of the information; and

10 “(vi) a clear and conspicuous notifica-
11 tion of the right of the consumer to re-
12 quest under subsection (d) that the
13 consumer reporting agency furnish notifi-
14 cations under that subsection.

15 “(7) DESCRIPTION OF REINVESTIGATION
16 PROCEDURE.—A consumer reporting agency
17 shall provide to a consumer a description re-
18 ferred to in paragraph (6)(B)(iv) by not later
19 than 15 days after receiving a request from the
20 consumer for that description.”.

21 (b) CONFORMING AMENDMENT.—Section 611(d) of
22 the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is
23 amended by striking “The consumer reporting agency
24 shall clearly” and all that follows through the end of the
25 subsection.

1 **SEC. 108. AMENDMENT RELATING TO CHARGES FOR DIS-**
2 **CLOSURE.**

3 Section 612 of the Fair Credit Reporting Act (15
4 U.S.C. 1681j) is amended to read as follows:

5 **“§ 612. Charges for disclosures and certain notices**
6 **prohibited**

7 “(a) FREE CONSUMER REPORTS.—Each consumer
8 reporting agency that maintains a file on a consumer shall
9 make all disclosures pursuant to section 609 without
10 charge to the consumer—

11 “(1) if the consumer makes a request under
12 section 609, not later than 60 days after receipt by
13 such consumer of a notification pursuant to section
14 615 or of a notification from a debt collection agen-
15 cy affiliated with that consumer reporting agency
16 stating that the consumer’s credit rating may be or
17 has been adversely affected; and

18 “(2) upon written request by the consumer not
19 later than 1 year after the consumer receives a noti-
20 fication under subsection (b)(2).

21 “(b) CHARGE FOR CERTAIN NOTICES PROHIB-
22 ITED.—A consumer reporting agency shall not impose any
23 charge for—

24 “(1) providing a notice required under section
25 611(a)(6); or

1 “(2) notifying a person pursuant to section
 2 611(d) of the deletion of information which is found
 3 to be inaccurate or which can no longer be verified,
 4 if the consumer designates that person to the agency
 5 before the end of the 30-day period beginning on the
 6 date of the notification of the consumer under sec-
 7 tion 611(a)(6).”.

8 **SEC. 109. AMENDMENTS RELATING TO DUTIES OF USERS**
 9 **OF CONSUMER REPORTS.**

10 (a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—
 11 Section 615(a) of the Fair Credit Reporting Act (15
 12 U.S.C. 1681m(a)) is amended to read as follows:

13 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
 14 ON THE BASIS OF INFORMATION CONTAINED IN
 15 CONSUMER REPORTS.—If any person takes any adverse
 16 action with respect to any consumer in connection with
 17 credit, employment purposes, insurance underwriting, any
 18 license or benefit described in section 604(3)(D), or any
 19 business transaction involving the consumer which is
 20 based, in whole or in part, on any information contained
 21 in a consumer report, the person shall—

22 “(1) provide written notice of the adverse action
 23 to the consumer;

24 “(2) provide the consumer—

1 “(A) the name, address, and telephone
2 number of the consumer reporting agency which
3 furnished the report to the person; and

4 “(B) a statement that the consumer re-
5 porting agency did not make the decision to
6 take the adverse action;

7 “(3) provide to the consumer a written notice of
8 the consumer’s right—

9 “(A) to obtain, under section 612, a free
10 copy of a consumer report on the consumer,
11 from the consumer reporting agency referred to
12 in paragraph (2) and from any other consumer
13 reporting agency which compiles and maintains
14 files on consumers on a nationwide basis; and

15 “(B) to dispute, under section 611, with a
16 consumer reporting agency the accuracy or
17 completeness of any information in a consumer
18 report furnished by the agency; and

19 “(4) in the case of an adverse action based in
20 whole or in part on a credit score or other credit rat-
21 ing system, provide to the consumer—

22 “(A) notice that the credit scoring system
23 was used; and

24 “(B) the principal reasons for that credit
25 score, if those reasons are required to be dis-

1 closed by the person for purposes of compliance
 2 with section 701(d)(3) of the Equal Credit
 3 Opportunity Act.”.

4 (b) DUTIES OF USERS WHO MAKE CERTAIN SOLICI-
 5 TATIONS.—Section 615 of the Fair Credit Reporting Act
 6 (15 U.S.C. 1681m) is further amended by adding at the
 7 end the following new subsection:

8 “(d) DUTIES OF USERS WHO MAKE WRITTEN CRED-
 9 IT OR INSURANCE SOLICITATIONS ON THE BASIS OF IN-
 10 FORMATION CONTAINED IN CONSUMER FILES.—

11 “(1) IN GENERAL.—Any person who uses a
 12 consumer report of any consumer in connection with
 13 any credit or insurance transaction which is not ini-
 14 tiated by the consumer and which consists of a firm
 15 offer of credit or insurance shall provide on or with
 16 any written solicitation made to the consumer re-
 17 garding the transaction a clear and conspicuous
 18 statement that—

19 “(A) information contained in the consum-
 20 er’s consumer report was used in connection
 21 with the transaction;

22 “(B) the consumer received the offer of
 23 credit or insurance because the consumer satis-
 24 fied the criteria for creditworthiness under
 25 which the consumer was selected for the offer;

1 “(C) if applicable, the credit or insurance
2 may not be extended if, after the consumer re-
3 sponds to the offer, the consumer does not meet
4 the original criteria used to select the consumer
5 for the offer;

6 “(D) no new criteria for creditworthiness
7 will be imposed on the consumer other than the
8 original criteria used to select the consumer for
9 the offer;

10 “(E) the consumer has a right to prohibit
11 information contained in the consumer’s file
12 with any consumer reporting agency to be used
13 in connection with any credit or insurance
14 transaction that is not initiated by the
15 consumer; and

16 “(F) the consumer may exercise the right
17 referred to in subparagraph (E) by using the
18 joint notification system established under sec-
19 tion 604(e)(4).

20 “(2) LIMITATION ON APPLICATION.—Paragraph
21 (1) does not apply to the use of a consumer report
22 by a person if—

23 “(A) the person is affiliated by common
24 ownership or by common corporate control with
25 the person who procured the report;

1 “(B) the person who procured the report
2 clearly and conspicuously disclosed to the
3 consumer to whom the report relates, before the
4 report is provided to the person who will use
5 the report, that the report might be provided to
6 and used by other persons who are affiliated in
7 the manner described in subparagraph (A) to
8 the person who procured the report; and

9 “(C) that provision and use of the report
10 is consented to by the consumer in writing.

11 “(3) FALSE AND MISLEADING STATEMENTS.—
12 No statement accompanying a credit or insurance
13 transaction that is not initiated by the consumer
14 shall contain any false or misleading information
15 concerning any condition or criteria for the extension
16 of credit (or offer therefore) to the consumer.

17 “(4) MAINTAINING CRITERIA ON FILE.—A per-
18 son who makes an offer of credit or insurance to a
19 consumer under a credit or insurance transaction
20 described in paragraph (1) shall maintain on file the
21 criteria used to select the consumer to receive the
22 offer, until the end of the 3-year period beginning on
23 the date on which the offer is made to the
24 consumer.”.

1 (c) DUTIES OF USERS FOR DIRECT MARKETING
2 TRANSACTIONS NOT INITIATED BY CONSUMERS.—Section
3 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m)
4 is further amended by adding at the end the following new
5 subsection:

6 “(e) DUTIES OF USERS FOR DIRECT MARKETING
7 TRANSACTIONS NOT INITIATED BY CONSUMERS.—Any
8 person who, in connection with a direct marketing trans-
9 action that is not initiated by a consumer, uses informa-
10 tion concerning the consumer that is provided by a
11 consumer reporting agency shall provide to the consumer
12 with each communication regarding the transaction made
13 to the consumer a clear and conspicuous written state-
14 ment—

15 “(1) that information concerning the consumer
16 that was provided by a consumer reporting agency
17 was used in connection with the transaction;

18 “(2) that the consumer has the right under sec-
19 tion 604(e) to prohibit any information concerning
20 the consumer from being provided by the consumer
21 reporting agency for use in connection with any di-
22 rect marketing transaction that is not initiated by
23 the consumer;

24 “(3) that the consumer may exercise the right
25 referred to in paragraph (2) by notifying the

1 consumer reporting agency in writing or, in the case
2 of a consumer reporting agency required to establish
3 a toll-free telephone number pursuant to section
4 604(d)(4), by calling that number; and

5 “(4) disclosing the name, address, and, in the
6 case of a consumer reporting agency required to es-
7 tablish a toll-free telephone number pursuant to sec-
8 tion 604(d)(4), the toll-free telephone number at
9 which the agency may be notified.”.

10 **SEC. 110. AMENDMENTS RELATING TO CIVIL LIABILITY.**

11 (a) WILLFUL FAILURE TO COMPLY.—Section 616 of
12 the Fair Credit Reporting Act (15 U.S.C. 1681n) is
13 amended to read as follows:

14 **“SEC. 616. CIVIL LIABILITY FOR WILLFUL NONCOMPLI-**
15 **ANCE.**

16 “(a) IN GENERAL.—Any person who willfully fails to
17 comply with any requirement imposed under this title with
18 respect to any consumer is liable to that consumer in an
19 amount prescribed under subsection (c).

20 “(b) EXCEPTION.—A person has no liability to a
21 consumer under this section for a violation of section
22 622(a)(1).

23 “(c) DAMAGES.—Liability for a willful failure to com-
24 ply described in subsection (a) shall be in an amount equal
25 to the sum of—

1 “(1) any actual damages sustained by the
2 consumer as a result of the failure;

3 “(2) an amount not less than \$300 nor greater
4 than \$1,000;

5 “(3) such punitive damages as the court may
6 allow; and

7 “(4) in the case of any successful action to en-
8 force any liability under this section—

9 “(A) the costs of the action; and

10 “(B) reasonable attorney’s fees, as deter-
11 mined by the court.”.

12 (b) NEGLIGENT FAILURE TO COMPLY.—Section 617
13 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is
14 amended to read as follows:

15 **“SEC. 617. CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-**
16 **ANCE.**

17 “(a) IN GENERAL.—Any person who is negligent in
18 failing to comply with any requirement of this title with
19 respect to a consumer shall be liable to that consumer in
20 an amount prescribed in subsection (c).

21 “(b) EXCEPTION.—A person has no liability to a
22 consumer under this section for a violation of section
23 622(a)(1).

1 “(c) DAMAGES.—Liability for a negligent failure to
2 comply described in subsection (a) shall be in an amount
3 equal to the sum of—

4 “(1) any actual damage sustained by a
5 consumer as a result of the failure; and

6 “(2) in the case of any successful action to en-
7 force liability under this section—

8 “(A) the costs of the action; and

9 “(B) reasonable attorney’s fees, as deter-
10 mined by the court.”.

11 **SEC. 111. AMENDMENTS RELATING TO RESPONSIBILITIES**
12 **OF PERSONS WHO FURNISH INFORMATION**
13 **TO CONSUMER REPORTING AGENCIES.**

14 (a) IN GENERAL.—The Fair Credit Reporting Act
15 (15 U.S.C. 1681 et seq.) is amended—

16 (1) by redesignating sections 622 and 623 as
17 sections 623 and 624; and

18 (2) by inserting after section 621 the following
19 new section:

20 **“SEC. 622. RESPONSIBILITIES OF FURNISHERS OF INFOR-**
21 **MATION TO CONSUMER REPORTING AGEN-**
22 **CIES.**

23 “(a) DUTY OF FURNISHERS OF INFORMATION TO
24 PROVIDE COMPLETE AND ACCURATE INFORMATION.—

1 “(1) IN GENERAL.—A person shall not furnish
2 any information to any consumer reporting agency if
3 the person knows or should know the information is
4 incomplete or inaccurate.

5 “(2) DUTY TO CORRECT AND UPDATE INFOR-
6 MATION.—A person who—

7 “(A) in the ordinary course of business,
8 regularly and on a routine basis furnishes infor-
9 mation to one or more consumer reporting
10 agencies about their own transactions or experi-
11 ences with a consumer; and

12 “(B) furnishes information to a consumer
13 reporting agency, that the person determines is
14 not complete or accurate;

15 shall promptly notify the consumer reporting agency
16 of that determination and provide to the agency any
17 corrections to that information, or any additional in-
18 formation, that is necessary to make the information
19 provided by the person to the agency complete and
20 accurate.

21 “(3) DUTY TO PROVIDE NOTICE OF CONTINU-
22 ING DISPUTE.—If the completeness or accuracy of
23 any information furnished by any person to any
24 consumer reporting agency continues to be disputed
25 to such person, the person may not furnish the in-

1 formation to any consumer reporting agency without
2 notice that such information is disputed by the
3 consumer.

4 “(4) DUTY TO PROVIDE NOTICE OF CLOSED AC-
5 COUNTS.—A person who regularly furnishes infor-
6 mation to a consumer reporting agency regarding a
7 consumer who has a credit account with that person
8 shall notify the agency of the closure of that account
9 by the consumer in information regularly furnished
10 for the period in which the account is closed.

11 “(5) DUTY TO PROVIDE NOTICE OF DELIN-
12 QUENCY OF ACCOUNTS.—A person who furnishes in-
13 formation to a consumer reporting agency regarding
14 a delinquent account being placed for collection,
15 charged to profit or loss, or subjected to any similar
16 action shall notify the agency of the commencement
17 of the delinquency immediately preceding that ac-
18 tion, by not later than 90 days after the date of that
19 commencement.

20 “(b) NOTICE TO CONSUMERS OF INFORMATION FUR-
21 NISHED TO CONSUMER REPORTING AGENCIES.—

22 “(1) NOTICE REQUIRED.—A person who in the
23 ordinary course of business regularly and on a rou-
24 tine basis furnishes information about that person’s
25 transactions or experiences with any consumer to

1 any consumer reporting agency, shall give notice of
2 that fact in writing to the consumer before first pro-
3 viding any information about the consumer to any
4 consumer reporting agency.

5 “(2) CONTENTS OF NOTICE.—Written notice
6 provided to a consumer by a person pursuant to
7 paragraph (1) shall contain—

8 “(A) a brief description of the type of in-
9 formation that may be furnished regularly to
10 any consumer reporting agency; and

11 “(B) a brief description of the frequency
12 with which or the circumstances under which
13 information is furnished to any consumer re-
14 porting agency.

15 “(3) NOTICE BY CERTAIN PERSONS.—A person
16 who furnishes information about consumers who
17 have written checks with insufficient funds may give
18 notice for purposes of paragraph (1) by posting the
19 notice in a conspicuous manner at each location
20 where checks are accepted by the person.

21 “(c) DUTIES OF FURNISHERS OF INFORMATION
22 UPON NOTICE OF DISPUTE.—Upon receiving notice pur-
23 suant to section 611(a)(2) of a dispute with regard to the
24 completeness or accuracy of any information provided by

1 a person to a consumer reporting agency, the person
2 shall—

3 “(1) complete an investigation with respect to
4 the disputed information and report to the consumer
5 reporting agency the results of that investigation be-
6 fore the end of the 20-day period beginning on the
7 date the agency receives notices of a dispute from
8 the consumer in accordance with section 611(a)(1);
9 and

10 “(2) review relevant information submitted to
11 the consumer reporting agency by the consumer in
12 accordance with section 611(a)(4).

13 “(d) LIMITATIONS.—

14 “(1) CIVIL LIABILITY.—Sections 616 and 617
15 shall not apply to any failure to comply with sub-
16 section (a).

17 “(2) ENFORCEMENT.—Subsection (a) shall be
18 enforced exclusively under section 621 by the agen-
19 cies identified in that section.

20 “(3) INJUNCTIVE RELIEF.—In an action alleg-
21 ing a violation of subsection (a)(1), the court shall
22 have jurisdiction to enjoin the violation only where
23 the action is brought by the Federal Trade Commis-
24 sion or the attorney general of a State.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for title VI of the Consumer Credit Protection Act is
 3 amended by redesignating the item relating to sections
 4 622 and 623 as sections 623 and 624, and inserting after
 5 the item relating to section 621 the following new item:

“622. Responsibilities of furnishers of information to consumer reporting agencies.”.

6 **SEC. 112. STATE ACTION TO ENFORCE ACT.**

7 Section 621 of the Fair Credit Reporting Act (15
 8 U.S.C. 1681s) is amended by adding at the end the follow-
 9 ing new subsection:

10 “(d) STATE ACTION TO ENFORCE ACT.—If any per-
 11 son violates any requirement imposed under this title, the
 12 chief law enforcement officer of the State in which such
 13 violation occurred (or an official or agency designated by
 14 that State) may bring an action—

15 “(1) to restrain such violation;

16 “(2) to recover amounts for which such person
 17 is liable under this title to each person on whose be-
 18 half the action is brought;

19 “(3) to seek such remedies as are allowed under
 20 the law of such State; or

21 “(4) to collect a civil penalty of not more than
 22 \$1,000 for each such violation.”.

1 **SEC. 113. ADMINISTRATIVE ENFORCEMENT.**

2 (a) IN GENERAL.—Section 621(a) of the Fair Credit
3 Reporting Act (15 U.S.C. 1681s(a)) is amended in the
4 second sentence—

5 (1) by striking “Act and shall be subject to en-
6 forcement by the Federal Trade Commission under
7 section 5(b) thereof with respect to any consumer re-
8 porting agency or person subject to enforcement by
9 the Federal Trade Commission pursuant to this sub-
10 section, irrespective” and inserting “Act. All func-
11 tions and powers of the Federal Trade Commission
12 under the Federal Trade Commission Act shall be
13 available to the Federal Trade Commission to en-
14 force compliance with this title by any person sub-
15 ject to enforcement by the Federal Trade Commis-
16 sion pursuant to this subsection, irrespective”; and

17 (2) by inserting before the period “, including
18 the power to enforce the provisions of this title in
19 the same manner as if the violation had been a vio-
20 lation of any Federal Trade Commission trade regu-
21 lation rule”.

22 (b) FEDERAL RESERVE BOARD INTERPRETIVE AU-
23 THORITY.—Section 621 of the Fair Credit Reporting Act
24 (15 U.S.C. 1681s) is amended by adding at the end the
25 following new subsection:

1 “(e) INTERPRETIVE AUTHORITY.—The Board of
2 Governors of the Federal Reserve System may issue an
3 interpretation of any provision of this title as it may apply
4 to any person identified in paragraph (1), (2), or (3) of
5 subsection (b), and the holding companies and affiliates
6 of such person, in consultation with the Federal agencies
7 identified in paragraph (1), (2), or (3) of subsection (b).”.

8 **SEC. 114. ESTABLISHMENT OF TOLL-FREE TELEPHONE**
9 **NUMBER.**

10 Each consumer reporting agency which compiles and
11 maintains consumer reports on a nationwide basis shall
12 establish (and thereafter maintain) a toll-free telephone
13 number pursuant to section 609(c)(1)(B) of the Fair
14 Credit Reporting Act, as amended by section 106(d), not
15 later than 1 year after the date of enactment of this Act.

16 **SEC. 115. ACTION BY FTC.**

17 The Federal Trade Commission shall prescribe all
18 matters required by this title (including the amendments
19 made by this title) to be prescribed by the Federal Trade
20 Commission not later than 270 days after the date of en-
21 actment of this Act.

22 **SEC. 116. EFFECTIVE DATES.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), the amendments made by this title shall become effec-
25 tive 1 year after the date of enactment of this Act.

1 (b) EXCEPTIONS.—Notwithstanding the provisions of
 2 subsection (a), the Federal Trade Commission may pre-
 3 scribe regulations, as required by this title and the amend-
 4 ments made by this title.

5 **TITLE II—CREDIT REPAIR**
 6 **ORGANIZATIONS**

7 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
 8 **TIONS.**

9 Title IV of the Consumer Credit Protection Act is
 10 amended to read as follows:

11 **“TITLE IV—CREDIT REPAIR**
 12 **ORGANIZATIONS**

- “Sec.
- “401. Short title.
- “402. Findings and purposes.
- “403. Definitions.
- “404. Prohibited practices by credit repair organizations.
- “405. Disclosures.
- “406. Credit repair organizations contracts.
- “407. Right to cancel contract.
- “408. Noncompliance with this title.
- “409. Civil liability.
- “410. Administrative enforcement.

13 **“SEC. 401. SHORT TITLE.**

14 “This title may be cited as the ‘Credit Repair Organi-
 15 zations Act’.

16 **“SEC. 402. FINDINGS AND PURPOSES.**

17 “(a) FINDINGS.—The Congress finds—

18 “(1) consumers have a vital interest in estab-
 19 lishing and maintaining their creditworthiness and
 20 credit standing in order to obtain and use credit. As

1 a result, consumers who have experienced credit
2 problems may seek assistance from credit repair or-
3 ganizations which offer to improve the credit stand-
4 ing of such consumers; and

5 “(2) certain advertising and business practices
6 of some companies engaged in the business of credit
7 repair services have worked a financial hardship
8 upon consumers, particularly those of limited eco-
9 nomic means and who are inexperienced in credit
10 matters.

11 “(b) PURPOSES.—The purposes of this title are—

12 “(1) to ensure that prospective buyers of the
13 services of credit repair organizations are provided
14 with the information necessary to make an informed
15 decision regarding the purchase of such services; and

16 “(2) to protect the public from unfair or decep-
17 tive advertising and business practices by credit re-
18 pair organizations.

19 **“SEC. 403. DEFINITIONS.**

20 “For purposes of this title:

21 “(1) CONSUMER.—The term ‘consumer’ means
22 an individual.

23 “(2) CONSUMER CREDIT TRANSACTION.—The
24 term ‘consumer credit transaction’ means any trans-
25 action in which credit is offered or extended to an

1 individual for personal, family, or household pur-
2 poses.

3 “(3) CREDIT REPAIR ORGANIZATION.—The
4 term ‘credit repair organization’—

5 “(A) means any person who uses any in-
6 strumentality of interstate commerce or the
7 mails to sell, provide, or perform (or represent
8 that such person can or will sell, provide, or
9 perform) any service, in return for the payment
10 of money or other valuable consideration, for
11 the express or implied purpose of—

12 “(i) improving any consumer’s credit
13 record, credit history, or credit rating;

14 “(ii) removing adverse credit informa-
15 tion that is accurate and not obsolete from
16 the consumer’s record, history, or rating;

17 “(iii) altering the consumer’s identi-
18 fication to prevent the display of the con-
19 sumer’s credit record, history, or rating for
20 the purpose of concealing adverse credit in-
21 formation that is accurate and not obso-
22 lete; or

23 “(iv) providing advice or assistance to
24 any consumer with regard to any activity

1 or service described in clause (i), (ii), or
2 (iii); and

3 “(B) does not include—

4 “(i) any nonprofit organization which
5 is exempt from taxation under section
6 501(c)(3) of the Internal Revenue Code of
7 1986; or

8 “(ii) any attorney at law who is a
9 member of the bar of the highest court of
10 any State or otherwise licensed under the
11 laws of any State, with respect to services
12 rendered that are within the scope of regu-
13 lations applicable to members of such bar
14 or such licensees.

15 “(4) CREDIT.—The term ‘credit’ has the same
16 meaning as in section 103(e).

17 **“SEC. 404. PROHIBITED PRACTICES BY CREDIT REPAIR**
18 **ORGANIZATIONS.**

19 “No credit repair organization, and no officer, em-
20 ployee, agent, or other person participating in the conduct
21 of the affairs of any credit repair organization, may—

22 “(1) charge or receive any money or other valu-
23 able consideration for the performance of any service
24 that the credit repair organization has agreed to

1 perform for any consumer before such service is fully
2 performed;

3 “(2) make any statement, or counsel or advise
4 any consumer to make any statement, which is un-
5 true or misleading (or which, upon the exercise of
6 reasonable care, should be known by the credit re-
7 pair organization, officer, employee, agent, or other
8 person to be untrue or misleading) with respect to
9 any consumer’s creditworthiness, credit standing, or
10 credit capacity to—

11 “(A) any consumer reporting agency (as
12 defined in section 603(f)); or

13 “(B) any person—

14 “(i) who has extended credit to the
15 consumer; or

16 “(ii) to whom the consumer has ap-
17 plied or is applying for an extension of
18 credit;

19 “(3) make any statement, or counsel or advise
20 any consumer to make any statement, the intended
21 effect of which is to alter the consumer’s identifica-
22 tion to prevent the display of the consumer’s credit
23 record, history, or rating for the purpose of conceal-
24 ing adverse credit information that is accurate and
25 not obsolete to—

1 “(A) any consumer reporting agency; or

2 “(B) any person—

3 “(i) who has extended credit to the
4 consumer; or

5 “(ii) to whom the consumer has ap-
6 plied or is applying for an extension of
7 credit;

8 “(4) make or use any untrue or misleading rep-
9 resentation of the services of the credit repair orga-
10 nization; or

11 “(5) engage, directly or indirectly, in any act,
12 practice, or course of business that constitutes or re-
13 sults in the commission of, or an attempt to commit,
14 a fraud or deception on any person in connection
15 with the offer or sale of the services of the credit re-
16 pair organization.

17 **“SEC. 405. DISCLOSURES.**

18 “(a) DISCLOSURE REQUIRED.—Before any contract
19 or agreement between a consumer and a credit repair
20 organization is executed, the credit repair organization
21 shall provide the consumer with the following written
22 statement:

1 **“Consumer Credit File Rights**
2 **Under State and Federal Law**

3 “‘You have a right to dispute inaccurate information
4 in your credit report by contacting the credit bureau di-
5 rectly. However, neither you nor any “credit repair” com-
6 pany or credit repair organization has the right to have
7 accurate, current, and verifiable information removed
8 from your credit report. The credit bureau must remove
9 accurate, negative information from your report only if it
10 is over 7 years old. Bankruptcy information can be re-
11 ported for 10 years.

12 “‘You have a right to obtain a copy of your credit
13 report from a credit bureau. You may be charged a rea-
14 sonable fee. There is no fee, however, if you have been
15 turned down for credit, employment, insurance, or a rental
16 dwelling because of information in your credit report with-
17 in the preceding 60 days. The credit bureau must provide
18 someone to help you interpret the information in your
19 credit file. A credit report is available annually at no
20 charge.

21 “‘You have a right to sue a credit repair company
22 that violates the Credit Repair Organization Act. This law
23 prohibits deceptive practices by credit repair companies.

1 “‘You have the right to cancel your contract with any
2 credit repair organization for any reason within 3 business
3 days from the date you signed it.

4 “‘Credit bureaus are required to follow reasonable
5 procedures to ensure that creditors report information ac-
6 curately. However, mistakes may occur.

7 “‘You may, on your own, notify a credit bureau in
8 writing that you dispute the accuracy of information in
9 your credit file. The credit bureau must then reinvestigate
10 and modify or remove inaccurate information. The credit
11 bureau may not charge any fee for this service. Any perti-
12 nent information and copies of all documents you have
13 concerning an error should be given to the credit bureau.

14 “‘If reinvestigation does not resolve the dispute to
15 your satisfaction, you may send a brief statement to the
16 credit bureau, to be kept in your file, explaining why you
17 think the record is inaccurate. The credit bureau must in-
18 clude your statement about disputed information with any
19 report it issues about you.

20 “‘The Federal Trade Commission regulates credit
21 bureaus and credit repair organizations. For more infor-
22 mation contact:

1 “‘Public Reference Branch
2 Federal Trade Commission
3 Washington, D.C. 20580.’.

4 “(b) SEPARATE STATEMENT REQUIREMENT.—The
5 written statement required under this section shall be pro-
6 vided as a document which is separate from any written
7 contract or other agreement between the credit repair or-
8 ganization and the consumer or any other written material
9 provided to the consumer.

10 “(c) RETENTION OF COMPLIANCE RECORDS.—

11 “(1) IN GENERAL.—The credit repair organiza-
12 tion shall maintain a copy of the statement signed
13 by the consumer acknowledging receipt of the state-
14 ment.

15 “(2) MAINTENANCE FOR 2 YEARS.—The copy
16 of any consumer’s statement shall be maintained in
17 the organization’s files for 2 years after the date on
18 which the statement is provided to the consumer.

19 **“SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS.**

20 “(a) WRITTEN CONTRACTS REQUIRED.—A credit re-
21 pair organization may not provide services for any
22 consumer unless a written and dated contract (for the pur-
23 chase of such services) which meets the requirements of
24 subsection (b) has been signed by the consumer.

1 “(b) TERMS AND CONDITIONS OF CONTRACT.—No
2 contract referred to in subsection (a) meets the require-
3 ments of this subsection unless such contract includes the
4 following information (in writing):

5 “(1) The terms and conditions of payment, in-
6 cluding the total amount of all payments to be made
7 by the consumer to the credit repair organization or
8 to any other person.

9 “(2) A full and detailed description of the serv-
10 ices to be performed by the credit repair organiza-
11 tion for the consumer, including—

12 “(A) all guarantees and all promises of full
13 or partial refunds; and

14 “(B) an estimate of—

15 “(i) the date by which the perform-
16 ance of the services (to be performed by
17 the credit repair organization or any other
18 person) will be complete; or

19 “(ii) the length of the period nec-
20 essary to perform such services.

21 “(3) The credit repair organization’s name and
22 principal business address.

23 “(4) A conspicuous statement in boldface type,
24 in immediate proximity to the space reserved for the
25 consumer’s signature on the contract, which reads as

1 follows: 'You may cancel this contract without pen-
2 alty or obligation at any time before midnight of the
3 third business day after the date on which you
4 signed the contract. See the attached notice of can-
5 cellation form for an explanation of this right.'

6 **"SEC. 407. RIGHT TO CANCEL CONTRACT.**

7 "(a) IN GENERAL.—Any consumer may cancel any
8 contract with any credit repair organization without pen-
9 alty or obligation by notifying the credit repair organiza-
10 tion of the consumer's intention to do so at any time be-
11 fore midnight of the third business day which begins on
12 the date on which the contract or agreement between the
13 consumer and the credit repair organization is executed
14 or would, but for this subsection, become enforceable
15 against the parties.

16 "(b) CANCELLATION FORM AND OTHER INFORMA-
17 TION.—Each contract shall be accompanied by a form, in
18 duplicate, which has the heading 'Notice of Cancellation'
19 and contains in boldface type the following statement:

20 " 'You may cancel this contract, without any
21 penalty or obligation, at any time before midnight of
22 the third business day which begins after the date
23 the contract is signed by you.

24 " 'If you cancel, any payment you made under
25 this contract will be returned before the end of the

1 10-day period beginning on the date the seller re-
2 ceives your cancellation notice.

3 “‘To cancel this contract, mail or deliver a
4 signed, dated copy of this cancellation notice, or any
5 other written notice to [insert name of credit repair
6 organization] at [insert address of credit repair or-
7 ganization] before midnight on [insert date].

8 “‘I hereby cancel this transaction.

9 “‘ _____ (purchaser’s signature)

10 “‘ _____ (date)’.

11 “(c) CONSUMER COPY OF CONTRACT REQUIRED.—

12 Any consumer who enters into any contract with any cred-
13 it repair organization shall be given, by the organization—

14 “(1) a copy of the completed contract and the
15 disclosure statement required under section 405; and

16 “(2) a copy of any other document the credit
17 repair organization requires the consumer to sign,
18 at the time the contract or the other document is signed.

19 **“SEC. 408. NONCOMPLIANCE WITH THIS TITLE.**

20 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
21 any consumer of any protection provided by or any right
22 of the consumer under this title—

23 “(1) shall be treated as void; and

24 “(2) may not be enforced by any Federal or
25 State court or any other person.

1 “(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt
2 by any credit repair organization to obtain a waiver from
3 any consumer of any protection provided by or any right
4 of the consumer under this title shall be treated as a viola-
5 tion of this title.

6 “(c) CONTRACTS NOT IN COMPLIANCE.—Any con-
7 tract for services which does not comply with the applica-
8 ble provisions of this title—

9 “(1) shall be treated as void; and

10 “(2) may not be enforced by any Federal or
11 State court or any other person.

12 **“SEC. 409. CIVIL LIABILITY.**

13 “(a) LIABILITY ESTABLISHED.—Any credit repair
14 organization which fails to comply with any provision of
15 this title with respect to any person shall be liable to such
16 person in an amount equal to the sum of the amounts
17 determined under each of the following paragraphs:

18 “(1) ACTUAL DAMAGES.—The greater of—

19 “(A) the amount of any actual damage
20 sustained by such person as a result of such
21 failure; or

22 “(B) any amount paid by the person to the
23 credit repair organization.

24 “(2) PUNITIVE DAMAGES.—

1 “(A) INDIVIDUAL ACTIONS.—In the case of
2 any action by an individual, such additional
3 amount as the court may allow.

4 “(B) CLASS ACTIONS.—In the case of a
5 class action, the sum of—

6 “(i) the aggregate of the amount
7 which the court may allow for each named
8 plaintiff; and

9 “(ii) the aggregate of the amount
10 which the court may allow for each other
11 class member, without regard to any mini-
12 mum individual recovery.

13 “(3) ATTORNEYS’ FEES.—In the case of any
14 successful action to enforce any liability under para-
15 graph (1) or (2), the costs of the action, together
16 with reasonable attorneys’ fees.

17 “(b) FACTORS TO BE CONSIDERED IN AWARDING
18 PUNITIVE DAMAGES.—In determining the amount of any
19 liability of any credit repair organization under subsection
20 (a)(2), the court shall consider, among other relevant fac-
21 tors—

22 “(1) the frequency and persistence of non-
23 compliance by the credit repair organization;

24 “(2) the nature of the noncompliance;

1 “(3) the extent to which such noncompliance
2 was intentional; and

3 “(4) in the case of any class action, the number
4 of consumers adversely affected.

5 “(c) JURISDICTION.—Any action under this section
6 may be brought in any United States district court, or
7 in any other court of competent jurisdiction, before the
8 later of—

9 “(1) the end of the 2-year period beginning on
10 the date of the occurrence of the violation involved;
11 or

12 “(2) in any case in which any credit repair or-
13 ganization has materially and willfully misrep-
14 sented any information which—

15 “(A) the credit repair organization is re-
16 quired, by any provision of this title, to disclose
17 to any consumer; and

18 “(B) is material to the establishment of
19 the credit repair organization’s liability to the
20 consumer under this section,
21 the end of the 2-year period beginning on the date
22 of the discovery by the consumer of the misrepresen-
23 tation.

1 **“SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

2 “(a) IN GENERAL.—Compliance with the require-
3 ments imposed under this title with respect to credit repair
4 organizations shall be enforced under the Federal Trade
5 Commission Act by the Federal Trade Commission.

6 “(b) VIOLATIONS OF THIS TITLE TREATED AS VIO-
7 LATIONS OF FEDERAL TRADE COMMISSION ACT.—

8 “(1) IN GENERAL.—For the purpose of the ex-
9 ercise by the Federal Trade Commission of the Fed-
10 eral Trade Commission’s functions and powers
11 under the Federal Trade Commission Act, any viola-
12 tion of any requirement or prohibition imposed
13 under this title with respect to credit repair organi-
14 zations shall constitute an unfair or deceptive act or
15 practice in commerce in violation of section 5(a) of
16 the Federal Trade Commission Act.

17 “(2) ENFORCEMENT AUTHORITY UNDER OTHER
18 LAW.—All functions and powers of the Federal
19 Trade Commission under the Federal Trade Com-
20 mission Act shall be available to the Federal Trade
21 Commission to enforce compliance with this title by
22 any person subject to enforcement by the Federal
23 Trade Commission pursuant to this subsection, in-
24 cluding the power to enforce the provisions of this
25 title in the same manner as if the violation had been
26 a violation of any Federal Trade Commission trade

1 regulation rule, without regard to whether the credit
2 repair organization—

3 “(A) is engaged in commerce; or

4 “(B) meets any other jurisdictional tests in
5 the Federal Trade Commission Act.

6 “(c) STATE ENFORCEMENT OF TITLE.—

7 “(1) IN GENERAL.—The attorney general of
8 any State, or an official or agency designated under
9 the law of any State, may enforce the provisions of
10 this title in Federal or State court.

11 “(2) CIVIL ENFORCEMENT ACTIONS.—Any
12 State may bring a civil action in any Federal or
13 State court to enjoin any violation of this title and
14 to recover damages under this title for consumers
15 who reside in such State.”.



S 783 IS—2

S 783 IS—3

S 783 IS—4

S 783 IS—5